Customer No.: **45988**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Bruce B. DORIS et al.	Art Unit: 2818
Appln. No.:	10/711,200	Examiner: D.A. Le
Filed :	September 1, 2004	Confirmation No.: 5199
For :	MULTI-GATE DEVICE WITH HIGH K DIELECTRIC FOR CHANNEL TOP SURFACE	

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop _____
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Examiner's restriction requirement of October 16, 2006, the time set for response being one month from the mailing date from the U.S. Patent and Trademark Office, i.e., November 16, 2006, Applicants hereby elect the invention of Group I, including claims 1 – 13. The above elections are made with traverse for the reasons set herein below:

In the Restriction Requirement of October 16, 2006, the Examiner indicated that all claims (1 – 20) were subject to restriction under 35 U.S.C. § 121. The Examiner restricted the claimed invention into Group I, including claims 1 – 13, drawn to a semiconductor device, classified in class 257, subclass 202 and Group II, including claims 14 – 20, drawn to a process of making a semiconductor device, classified in class 438, subclass 157.

The Examiner asserted that the inventions were related as process of making

and product made, and that the inventions are distinct from each other under M.P.E.P. § 806.05(f) because the "device of the group I invention could be made by the processes materially different from those of the group II invention."

Applicants respectfully submit that the Examiner has omitted one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. § 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if the restriction requirement were not required.

While the Examiner has alleged a possible distinction between the two identified groups of invention, the Examiner has not shown that a concurrent examination of these groups, and each species, would present a "serious burden." Moreover, while the Examiner has asserted the individual groups would be classified in different classes, there is no appropriate statement that the search areas required to examine the invention of group I would not overlap into the search areas for examining the invention of group II, and vice versa. Applicants respectfully submit that the search for the combination of features recited in the claims of the above-noted groups and the individual species, if not totally co-extensive, would appear to have a very substantial degree of overlap.

Because the search for each group and species of invention is substantially the same, Applicants submit that no undue or serious burden would be presented in concurrently examining Groups I and II. Thus, for the above-noted reasons, and consistent with the office policy set forth above in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider and withdraw the restriction and

species requirement in this application.

For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicants have elected, with traverse, the invention defined by Group I, i.e., claims 1 – 13, in the event that the Examiner chooses not to reconsider and withdraw the restriction or species requirement.

Should the Examiner have any questions or comments, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Bruce B. DORIS et al.

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November 16, 2006
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